

PATON FLOOR AMENDMENT

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2455

(Reference to the GOVERNMENT Committee amendment)

1 Page 2, strike lines 25 through 31

2 Page 3, strike lines 1 through 5

3 Renumber to conform

4 Page 4, strike lines 19 and 20

5 Renumber to conform

6 Page 5, line 16, after "8-817" insert a period; strike remainder of line; strike

7 lines 17 and 18

8 Page 7, line 23, after "OR" strike remainder of line; line 24 strike "OF" insert

9 "GUARDIAN AD LITEM REPRESENTING"

10 Page 8, line 5, strike "REQUESTED" insert "REQUIRED"

11 Strike lines 22 through 31, insert:

12 "2. SHALL PROMPTLY PROVIDE CPS INFORMATION TO THE PUBLIC OF A CASE OF
13 CHILD ABUSE, ABANDONMENT OR NEGLECT THAT HAS RESULTED IN A FATALITY OR NEAR
14 FATALITY AS FOLLOWS:

15 (a) PROVIDE PRELIMINARY INFORMATION WHICH SHALL INCLUDE:

16 (i) THE NAME, AGE AND CITY, TOWN OR GENERAL LOCATION OF RESIDENCE OF
17 THE CHILD WHO HAS SUFFERED A NEAR FATALITY OR FATALITY.

18 (ii) THE FACT THAT A CHILD SUFFERED A NEAR FATALITY OR FATALITY AS THE
19 RESULT OF ABUSE, ABANDONMENT OR NEGLECT.

20 (iii) THE NAME, AGE AND CITY, TOWN OR GENERAL LOCATION OF RESIDENCE OF
21 THE ALLEGED PERPETRATOR, IF AVAILABLE.

22 (iv) WHETHER THERE HAVE BEEN REPORTS, OR ANY CURRENT OR PAST CASES, OF
23 CHILD ABUSE, ABANDONMENT OR NEGLECT INVOLVING THE CHILD AND THE CURRENT
24 ALLEGED ABUSIVE OR NEGLECTFUL PARENT, GUARDIAN OR CUSTODIAN.

25 (v) ACTIONS TAKEN BY CHILD PROTECTIVE SERVICES IN RESPONSE TO THE
26 FATALITY OR NEAR FATALITY OF THE CHILD.

27 (b) UPON REQUEST BY ANY PERSON, SHALL PROMPTLY PROVIDE ADDITIONAL CPS
28 INFORMATION TO THE REQUESTOR. BEFORE RELEASING ADDITIONAL CPS INFORMATION,

1 THE DEPARTMENT SHALL PROMPTLY NOTIFY THE COUNTY ATTORNEY OF ANY DECISION TO
2 RELEASE SUCH INFORMATION, AND THE COUNTY ATTORNEY SHALL PROMPTLY INFORM THE
3 DEPARTMENT IF IT BELIEVES THE RELEASE WOULD CAUSE A SPECIFIC, MATERIAL HARM
4 TO A CRIMINAL INVESTIGATION. AFTER CONSULTING WITH THE COUNTY ATTORNEY,
5 PURSUANT TO SUBDIVISION (c) OF THIS PARAGRAPH, THE DEPARTMENT SHALL PRODUCE
6 TO THE REQUESTOR AS MUCH ADDITIONAL CPS INFORMATION AS PROMPTLY AS POSSIBLE
7 ABOUT A CASE OF CHILD ABUSE, ABANDONMENT OR NEGLECT THAT RESULTED IN A
8 FATALITY OR NEAR FATALITY.

9 (c) UPON REQUEST CONTINUE TO PROVIDE CPS INFORMATION PROMPTLY TO THE
10 PUBLIC ABOUT A FATALITY OR NEAR FATALITY UNLESS:

11 (i) AFTER CONSULTATION WITH THE COUNTY ATTORNEY, THE COUNTY ATTORNEY
12 DEMONSTRATES THAT RELEASE OF PARTICULAR CPS INFORMATION WOULD CAUSE A
13 SPECIFIC, MATERIAL HARM TO A CRIMINAL INVESTIGATION.

14 (ii) THE RELEASE WOULD VIOLATE SUBSECTION A OF THIS SECTION,
15 SUBSECTION K OF THIS SECTION OR VIOLATE THE PRIVACY OF VICTIMS OF CRIME
16 PURSUANT TO ARTICLE II, SECTION 2.1, SUBSECTION C, CONSTITUTION OF ARIZONA.

17 (d) IF ANY PERSON BELIEVES THAT THE COUNTY ATTORNEY HAS FAILED TO
18 DEMONSTRATE THAT RELEASE WOULD CAUSE A SPECIFIC, MATERIAL HARM TO A CRIMINAL
19 INVESTIGATION, ANY PERSON, INCLUDING THE DEPARTMENT, MAY FILE AN ACTION IN
20 SUPERIOR COURT PURSUANT TO TITLE 39, ARTICLE 2, AND SUBSECTION I OF THIS
21 SECTION AND REQUEST THE COURT TO REVIEW THE CPS INFORMATION IN CAMERA AND
22 ORDER DISCLOSURE."

23 Page 9, line 21, after the first "INFORMATION" strike remainder of line insert
24 ", THE INFORMATION HAS BEEN DISCLOSED IN A PUBLIC OR COURT RECORD, OR THE
25 INFORMATION HAS BEEN DISCLOSED IN THE COURSE OF A PUBLIC MEETING OR COURT
26 PROCEEDING."

27 Line 26 after the first "INFORMATION" strike remainder of line; line 27 strike
28 "DOMAIN" insert ", THE INFORMATION HAS BEEN DISCLOSED IN A PUBLIC OR COURT
29 RECORD, OR THE INFORMATION HAS BEEN DISCLOSED IN THE COURSE OF A PUBLIC
30 MEETING OR COURT PROCEEDING"

31 Page 11, line 1, after "TO" insert "PREVENT ANY CLEARLY UNWARRANTED INVASIONS OF
32 PRIVACY AND"

1 Page 11, line 2, after the first "OF" strike remainder of line insert "VICTIMS OF
2 CRIME PURSUANT TO ARTICLE II, SECTION 2.1, SUBSECTION C, CONSTITUTION OF
3 ARIZONA."

4 Line 15, after "TO" insert "PREVENT ANY CLEARLY UNWARRANTED INVASIONS OF PRIVACY
5 AND"

6 Line 16 after the first "OF" strike remainder of line insert "VICTIMS OF CRIME
7 PURSUANT TO ARTICLE II, SECTION 2.1, SUBSECTION C, CONSTITUTION OF ARIZONA."

8 Page 13, strike lines 13 through 20

9 Renumber to conform

10 Line 32, after the period strike remainder of line

11 Page 14, strike lines 1 and 2

12 Line 3, after "ENSURE" strike remainder of line; strike line 4, insert "THOROUGH
13 INVESTIGATIONS OF THOSE ACCUSED OF CRIMES AGAINST CHILDREN,"

14 Line 8, strike "GOVERN" insert "GUIDE"

15 Line 28, after "year" insert "INDEPENDENTLY FROM CHILD PROTECTIVE SERVICES AND
16 EACH COUNTY ATTORNEY"

17 Line 31, after "(a)" strike remainder of line; line 32, strike "PROTECTIVE
18 SERVICES REGARDING"

19 Page 15, line 2, strike the second "PURSUANT TO" insert "IN"

20 Line 5, after "CHARGED" insert "IN THOSE CASES, THE REASONS WHY CHARGES WERE NOT
21 PURSUED"

22 Strike lines 21 through 25, insert:

23 "C. THE DEPARTMENT SHALL COOPERATE WITH THE COUNTY ATTORNEY AND THE
24 APPROPRIATE LAW ENFORCEMENT AGENCY PURSUANT TO THE INVESTIGATION PROTOCOLS
25 ADOPTED IN THIS SECTION. IN INSTANCES OF CRIMINAL CONDUCT AGAINST A CHILD,
26 THE DEPARTMENT SHALL PROTECT THE VICTIM'S RIGHTS OF THE CHILDREN IN ITS
27 CUSTODY AGAINST HARASSMENT, INTIMIDATION AND ABUSE, AS APPLICABLE, PURSUANT
28 TO ARTICLE II, SECTION 2.1, CONSTITUTION OF ARIZONA."

29 Line 27, strike the second "PURSUANT"; strike lines 28 through 32

30 Page 16, strike lines 1 through 19, insert "IN THIS SECTION."

31 Renumber to conform

32 Page 17, strike lines 27 through 29

1 Page 18, between lines 13 and 14, insert:

2 "Sec. 9. Section 8-846, Arizona Revised Statutes, is amended to read:

3 8-846. Services provided to the child and family

4 A. Except as provided in ~~subsection~~ SUBSECTIONS B AND C of this
5 section, if the child has been removed from the home, the court shall order
6 the department to make reasonable efforts to provide services to the child
7 and the child's parent.

8 B. The court shall consider the following factors and reunification
9 services are not required to be provided if the court finds by clear and
10 convincing evidence that:

11 1. One or more of the following aggravating circumstances exist:

12 (a) A party to the action provides a verified affidavit that states
13 that a reasonably diligent search has failed to identify and locate the
14 parent within three months after the filing of the dependency petition or the
15 parent has expressed no interest in reunification with the child for at least
16 three months after the filing of the dependency petition.

17 (b) The parent or guardian is suffering from a mental illness or
18 mental deficiency of such magnitude that it renders the parent or guardian
19 incapable of benefitting from the reunification services. This finding shall
20 be based on competent evidence from a psychologist or physician that
21 establishes that, even with the provision of reunification services, the
22 parent or guardian is unlikely to be capable of adequately caring for the
23 child within twelve months after the date of the child's removal from the
24 home.

25 (c) The child previously has been removed and adjudicated dependent
26 due to physical or sexual abuse. After the adjudication the child was
27 returned to the custody of the parent or guardian and then subsequently
28 removed within eighteen months due to additional physical or sexual abuse.

29 (d) A child is the victim of serious physical or emotional injury by
30 the parent or guardian or by any person known by the parent or guardian, if
31 the parent or guardian knew or reasonably should have known that the person
32 was abusing the child.

1 (e) The parent's rights to another child have been terminated, the
2 parent has not successfully addressed the issues that led to the termination
3 and the parent is unable to discharge parental responsibilities.

4 (f) After a finding that a child is dependent, all of the following
5 are true:

6 (i) A child has been removed from the parent or guardian on at least
7 two previous occasions.

8 (ii) Reunification services were offered or provided to the parent or
9 guardian after the removal.

10 (iii) The parent or guardian is unable to discharge parental
11 responsibilities.

12 2. The parent or guardian of a child has been convicted of murder or
13 manslaughter of a child, or of sexual abuse, sexual assault of a child,
14 sexual conduct with a minor, molestation of a child, commercial sexual
15 exploitation of a minor, sexual exploitation of a minor, or luring a minor
16 for sexual exploitation.

17 3. The parent or guardian of a child has been convicted of aiding or
18 abetting or attempting, conspiring or soliciting to commit any of the crimes
19 listed in paragraph 2 of this subsection.

20 C. THE COURT SHALL CONSIDER ANY CRIMINAL PROSECUTION RELATING TO THE
21 OFFENSES WHICH LED TO THE CHILD'S REMOVAL FROM THE HOME AND ANY ORDERS OF THE
22 CRIMINAL COURT. INFORMATION MAY BE PROVIDED BY LAW ENFORCEMENT OR THE COUNTY
23 ATTORNEY."

24 Amend title to conform

JONATHAN PATON

2455-f3-paton
3/24/08
2:12 PM
H:jmb